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11 UNITED STATES DISTRICT COURT  
12 EASTERN DISTRICT OF WASHINGTON

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 vs.

16 DONDRE CHARLES JACKSON,

17 Defendant.  
18  
19

No. 2:22-CR-0089-TOR

United States' Sentencing  
Memorandum

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21 Plaintiff, United States of America, by and through Vanessa R. Waldref,  
22 United States Attorney for the Eastern District of Washington, and the undersigned  
23 counsel, submits the following Sentencing Memorandum.<sup>1</sup>  
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25

26 <sup>1</sup> The undersigned counsel apologizes to the Court and defense counsel for not  
27 having filed the instant memorandum on December 23, 2022. Mindful of this  
28 Court's Order Accepting Guilty Plea and Setting Sentencing Schedule (ECF No.

Defendant DONDRE CHARLES JACKSON's U.S. Sentencing Guideline range is 6 – 12 months. (PSIR<sup>2</sup> at ¶ 89). However, Defendant's Guideline range is in Zone B, which allows for a sentence of probation under the Guidelines to satisfy the minimum term. (PSIR ¶ 67). In addition, Defendant has pleaded guilty to a Class D felony making him eligible for a one to five year sentence of probation under 18 U.S.C. § 3561(c)(1). (PSIR at ¶ 7). As detailed herein, a sentence of probation and restitution in the amount of \$54,999, entry of a money judgment in that amount, and one mandatory special penalty assessment totaling \$100, would be a sufficient sentence for Defendant, but not greater than necessary given the 18 U.S.C. § 3553(a) factors. Specifically, Defendant's cooperation upon his first contact with law enforcement prior to his initial appearance in this matter, his speedy acceptance of responsibility, and his lack of criminal history, all auger towards a sentence of probation without incarceration.

#### I. Factual Background

On July 19, 2022, the Grand Jury returned an indictment charging the Defendant with four counts of Wire Fraud, in violation of 18 U.S.C. § 1343, and two counts of False, Fictitious, or Fraudulent Claims, in violation of 18 U.S.C. § 287. (ECF No. 1). Shortly thereafter, on September 21, 2022, the date that had been set for his first pretrial conference, Defendant pleaded guilty to Count 6 of the Indictment, charging False, Fictitious, or Fraudulent Claim in violation of 18 U.S.C. § 287. (See ECF No. 19).

The charges against Defendant stem from two Paycheck Protection Program (PPP) loans that Defendant applied for requesting a total of \$49,999 from the U.S. Small Business Administration (SBA), using materially false and fraudulent

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20), the United States nonetheless submits the instant memorandum for the Court's consideration.

<sup>2</sup> Refers to the Presentence Investigation Report (ECF No. 22).

1 information. (ECF No. 1 at 3-6). Specifically, on April 15, 2021, Defendant  
2 applied for a PPP loan for a non-existent business falsely claiming gross business  
3 income of \$103,208 for 2019. (ECF No. 1 at 4). Defendant's representations were  
4 false, as he knew, but through them he was able to personally receive a total of  
5 \$20,833. (ECF No. 19 at 6).

6 Subsequently, on May 20, 2021, Defendant applied for another PPP loan and  
7 again did so by falsely certifying that he had a business with gross income of  
8 \$103,208 for 2019. (ECF No. 1 at 5). Defendant's representations were false, as  
9 he knew, but through them he was able to personally receive a total of \$29,166.  
10 (ECF No. 19 at 7-8)

11 Defendant and the United States (herein collectively "the parties" where  
12 appropriate) have reached substantial agreement in this case. The plea agreement  
13 between the parties provides, *inter alia*, that the parties agree and stipulate that this  
14 Court should order the Defendant to pay restitution to the SBA in the amount of at  
15 least \$49,999. (ECF No. 19 at 11). The PSIR provides that the total amount of  
16 loss to the SBA, when lender fees are factored in, is \$54,999, and that is the United  
17 States' requested amount of restitution. (*See* PSIR ¶ 20). The plea agreement  
18 further provides, *inter alia*, that the parties agree that Defendant's base offense  
19 level for count 6 of the Indictment is six (6) pursuant to USSG § 2B1.1(a)(2), that  
20 Defendant's base offense level is increased by six (6) based on an agreed amount  
21 of actual and intended loss of at least \$49,999, pursuant to USSG  
22 § 2B1.1(b)(1)(D), and that the Defendant's offense level is reduced by two (2) for  
23 his timely acceptance of responsibility under USSG § 3E1.1(a). (*See* PSIR ¶ 4).  
24 Accordingly, the parties agree that Defendant's adjusted offense level is ten (10).  
25 (ECF No. 19 at 8-9). The PSIR also calculates Defendant's adjusted offense level  
26 to be ten (10) and further calculates the Defendant's criminal history as a Category  
27 I, yielding a sentencing range in Zone B of 6-12 months incarceration. (PSIR  
28 ¶ 89).

1 II. A Sentence of Probation and Restitution is Sufficient, but No Greater  
2 Than Necessary, and Otherwise Comports with the Relevant  
3 Sentencing Factors

4 The Court must consider all of the sentencing factors set forth in § 3553(a)  
5 in determining the Defendant's sentence. Those factors include: (1) the nature and  
6 circumstances of the offense and the history and characteristics of the defendant;  
7 (2) the need for the sentence imposed to reflect the seriousness of the offense, to  
8 promote respect for the law, and to provide just punishment for the offense; (3) the  
9 need to afford adequate deterrence to criminal conduct, and to protect the public  
10 from further crimes of the defendant; (4) the need to provide the defendant with  
11 educational or vocational training, medical care, or other correctional treatment in  
12 the most effective manner; (5) the guidelines and policy statements issued by the  
13 Sentencing Commission; (6) the need to avoid unwarranted sentencing disparities  
14 among defendants with similar records who have been found guilty of similar  
15 conduct; and (7) the need to provide restitution to any victims of the offense. 18  
16 U.S.C. § 3553(a).

17 In this case, the nature and circumstances of Defendant's crime as well as  
18 his history and characteristics auger towards a sentence of probation and  
19 restitution. Defendant has no criminal history but does have a history of gainful  
20 employment. (*See* PSIR ¶¶ 37-38 and 59-61). The nature and circumstances of  
21 Defendant's crimes are submitting two false loan applications resulting in his  
22 receipt of nearly \$50,000. (PSIR ¶¶ 8-18). However, after his two false  
23 applications, when first confronted by law enforcement, he immediately admitted  
24 to his offenses. (PSIR ¶ 17). Defendant's acceptance of responsibility continued  
25 when he entered a plea of guilty on the day that had been scheduled for his first  
26 pretrial conference in this matter. (*See* ECF No. 17 at 2 (setting the first pre-trial  
27 conference for September 21, 2022). Moreover, the PSIR reports that Defendant  
28 has expressed genuine remorse not only at his offenses but for no longer being able  
to say that he is not a felon. (PSIR ¶ 49). At bottom, a sentence of probation and  
UNITED STATES' SENTENCING MEMORANDUM - 4

1 restitution in this circumstance reflects the seriousness of the offense, promotes  
2 respect for the law, provides just punishment for the offense and affords adequate  
3 deterrence to criminal conduct to protect the public from further crimes of  
4 Defendant. Finally, the need to provide restitution in this case is adequately  
5 addressed in the plea agreement.

6 III. Recommended Terms of Probation

7 Should this Court choose to impose a term of probation in this matter, the  
8 United States recommends that this Court impose all mandatory and standard  
9 conditions of probation recommended in the PSIR. (PSIR at pages 16-18) In  
10 addition, the United States recommends that this Court impose as conditions of  
11 probation the same conditions that the parties agreed to for any imposition of  
12 supervised release, which include:

- 13 a. Defendant will provide financial information and copies of  
14 federal income tax returns, and allow credit checks, at the  
15 direction of the United States Probation Office;
- 16 b. Defendant shall disclose all assets and liability to the United  
17 States Probation Office and shall not transfer, sell, give away,  
18 or otherwise convey or secret any asset, without the advance  
19 approval of the United States Probation Office;
- 20 c. Defendant is prohibited from incurring any new debt, opening  
21 new lines of credit, or enter any financial contracts or  
22 obligations without the prior approval of the United States  
23 Probation Office; and
- 24 d. Defendant shall participate in and complete financial  
25 counseling and life skills programs at the direction of the  
26 United States Probation Office.

27 (See ECF No. 19 at 10-11).

1 IV. Conclusion

2 The United States recommends that this Court sentence Defendant to a term  
3 of probation and impose \$54,900 in restitution and a \$100 special penalty  
4 assessment upon Defendant.

5  
6 RESPECTFULLY SUBMITTED this 26<sup>th</sup> day of December, 2022.

7  
8 Vanessa R. Waldref  
United States Attorney

9  
10 /s Tyler H.L. Tornabene

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20 **CERTIFICATE OF SERVICE**

21 I hereby certify that on December 26, 2022, I caused the foregoing to be filed  
22 with the Clerk of the Court using the CM/ECF System and service of such filing will  
23 be sent by reliable electronic means to attorney Lorinda Youngcourt, for Defendant  
24 Dondre Charles Jackson, as follows:

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26 Lorinda Youngcourt  
27 Federal Defenders of  
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4  
5 *s/Tyler H.L. Tornabene*

6 Tyler H.L. Tornabene

7 Assistant United States Attorney  
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